

Honorable Judge Benjamin H. Settle

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA**

CLYDE RAY SPENCER, MATTHEW RAY  
SPENCER, and KATHRYN E. TETZ,

Plaintiffs,

v.

FORMER DEPUTY PROSECUTING  
ATTORNEY FOR CLARK COUNTY  
JAMES M. PETERS, DETECTIVE  
SHARON KRAUSE, SERGEANT  
MICHAEL DAVIDSON, CLARK COUNTY  
PROSECUTOR'S OFFICE, CLARK  
COUNTY SHERIFF'S OFFICE, THE  
COUNTY OF CLARK, SHIRLEY  
SPENCER, and JOHN DOES ONE  
THROUGH TEN,

Defendants.

NO. C11-5424-BHS

DECLARATION OF JEFFREY  
FREIMUND IN SUPPORT OF  
DAVIDSON'S RENEWED  
SUMMARY JUDGMENT  
MOTION

**NOTE ON MOTION  
CALENDAR:** February 8, 2013

Pursuant to 28 U.S.C. § 1746, JEFFREY FREIMUND, declares under penalty of perjury under the laws of the State of Washington and the United States of America that the following is true and accurate:

1. I am an attorney representing defendant Michael Davidson in the above-captioned matter. I am over the age of 18, competent to testify about the matters stated herein, and make this declaration based on my personal knowledge.

1       2. Attached to this declaration as Exhibit 1 is a true and accurate copy of excerpts from  
2 the deposition of Shirley Spencer. Specifically, the following pages from the transcript of this  
3 deposition are attached: pages 23-51, 59, 83-87, 98-99, 100-05, 120-24, 130-35, 145-46, 151-  
4 52. Also attached at the end of Exhibit 1 is Exhibit B to Shirley Spencer's deposition, which  
5 she authenticated on pages 151-52 of her deposition.  
6

7       3. Attached to this declaration as Exhibit 2 is a true and accurate copy of excerpts from  
8 the deposition of Michael Davidson. Specifically, the following pages from the transcript of  
9 this deposition are attached: pages 16-20, 36-41, 47-50, 57-58, 65-68, 72-90, 99-108, 126-27.  
10

11       4. Attached to this declaration as Exhibit 3 is a true and accurate copy of excerpts from  
12 the deposition of Sharon Krause. Specifically, the following pages from the transcript of this  
13 deposition are attached: pages 16-18, 26-31, 60-62, 69-70, 135-36, 195-96. Also attached at  
14 the end of Exhibit 3 is Exhibit 14 to Sharon Krause's deposition, which she authenticated on  
15 pages 135-36 of her deposition.

16       5. Attached to this declaration as Exhibit 4 is a true and accurate copy of defense  
17 expert Dr. Phillip Esplin's report concerning this case, submitted under penalty of perjury by  
18 Dr. Esplin, and the attachments thereto.  
19

20       6. Attached to this declaration as Exhibit 5 is a true and accurate copy of excerpts  
21 from the deposition of plaintiff's liability expert, Dr. William Bernet. Specifically, the  
22 following pages from the transcript of this deposition are attached: pages 8, 11, 13-21, 25, 29-  
23 39, 44-46, 48-49, 51-52, 55-59, 61, 63-69, 80-81, 85, 87-89, 96-101, 112, 136-37, 140, 143-48,  
24 150-53, 157, 161-62, 165-66.

25       7. Attached to this declaration as Exhibit 6 is a true and accurate copy of excerpts  
26

1 from the deposition of Kathryn Tetz (*nee* Spencer). Specifically, the following pages from the  
 2 transcript of this deposition are attached: pages 34-35.

3 8. Attached to this declaration as Exhibit 7 is a true and accurate copy of excerpts from  
 4 the deposition of Matthew Spencer. Specifically, the following pages from the transcript of  
 5 this deposition are attached: pages 57, 89-92, 101. Also attached at the end of Exhibit 7 is  
 6 Exhibit 3 to Matthew Spencer's deposition, which he authenticated on page 57 of his  
 7 deposition.  
 8

9 9. Attached to this declaration as Exhibit 8 is a true and accurate copy of excerpts from  
 10 the deposition of Clyde Ray Spencer. Specifically, the following pages from the transcript of  
 11 this deposition are attached: pages 8-11, 16.  
 12

13 10. Attached to this declaration as Exhibit 9 is a true and accurate copy of excerpts  
 14 from the deposition of Arthur Curtis. Specifically, the following pages from the transcript of  
 15 this deposition are attached: pages 18, 65, 70-74, 93-94.  
 16

17 11. Attached to this declaration as Exhibit 10 is a true and accurate copy of excerpts  
 18 from the deposition of Rebecca Roe. Specifically, the following pages from the transcript of  
 19 this deposition are attached: pages 84, 86-87, 95-98, 195-97.  
 20

21 SIGNED this 16<sup>th</sup> day of January, 2013 in Olympia, WA.

22 s/Jeffrey A. O. Freimund  
 23 JEFFREY A. O. FREIMUND, WSBA No. 17384  
 24 Freimund Jackson Tardif & Benedict Garratt, PLLC  
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 Attorney for Defendant Michael Davidson

**CERTIFICATE OF SERVICE**

I hereby certify that on January 16, 2013, I caused to be electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Douglas H. Johnson, Attorney Pro Hac Vice for Plaintiff Clyde Ray Spencer  
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s/Janice Flaherty

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